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January 30, 2018

Hon. Nicholas G. Garaufis
U.S. District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Catalino Mendez, et al. v. MCSS Rest. Corp., et al.
Case No. 16-CV-02746 (NGG)RLM)

Dear Judge Garaufis:

This office represents all defendants except Christos Siklas in this action for alleged minimum wage and overtime violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §201, et seq., and related New York State Labor Law violations. Pursuant to your Honor's minute order, dated October 12, 2017, plaintiffs served their motion for class certification pursuant to Fed.R.Civ. Pro 23 on December 8, 2017. Defendants' opposition is due by February 2, 2018, and plaintiffs reply, if any, is due by February 18, 2018. The purpose of this letter is to request a thirty-day extension until March 2, 2018 to file defendants' opposition.

On January 26, 2018, I sent an email to Brent Pelton and Alison Mangiatordi, attorneys with Pelton Graham LLC, representing plaintiffs, asking if they would consent to extending defendants' time to serve opposition to March 2, 2018. On January 30, 2018 I spoke with them by telephone to ask if they had received my email. They stated they had, but had decided to consent to one additional week. I asked if they would consent to three weeks, until February 24, 2018. But they reiterated their consent to one week. I then told them I would be asking the court to extend defendants' time to March 2, 2018.

As shown on plaintiffs' Memorandum of Law in support of their motion, three attorneys collaborated on plaintiffs' motion, namely Brent Pelton, Taylor Graham and Alison Mangiatordi. I am, however, a sole practitioner. Although I have frequently filed opposition to FLSA collective action motions, I have only opposed a motion for class certification pursuant to Fed.R.Civ. Pro. 23 once, about nine years ago in Pefanis v. Westway Diner, Inc., 08-CV-002 (DLC)(S.D.N.Y.)

Until now, counsel have cooperated in conducting discovery and granting extensions. By letter dated February 16, 2017, plaintiffs' counsel requested a two-month extension of the discovery deadline, from March 10, 2017 to May 10, 2017. (Dkt. 32). I consented to their request. Subsequently, seven additional employees joined as opt-in plaintiffs. (Dkts. 33-37, 39 and 44). By letter dated May 3, 2017, the parties requested an additional two-month extension of discovery from May 10, 2017 to July 10, 2017, on consent. (Dkt. 40).

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This is the first request for an extension of the time for defendants to serve opposition. As I advised Mr. Pelton and Ms. Mangiatordi in my original email defendants' would consent to extending the time for plaintiffs to serve their reply from February 18, 2018 to a date convenient to them. No other dates would be effected by defendants' request.

Plaintiffs did not claim they would be prejudiced by a thirty-day extension when we spoke by phone. It is respectfully submitted that plaintiffs are merely attempting to leverage their advantage as a firm able to assign three attorneys to their motion to the disadvantage of the defendants.

I thank the Court for its time and consideration in reviewing this request.

Very truly yours,

/S/

Arthur H. Forman

AHF/ms